

R E M A R K S

Claims **1-24 and 26 - 102** are pending in the present application.
Claims **1, 62, 85, 87-95, 101 and 102** are independent.

CPA

A Continued Prosecution Application and requisite fee have been timely filed.

Drawings

The drawings were objected to on page 2 of the Office Action mailed February 6, 2002.
With respect to FIG. 28, the specification has been amended to correct the typographical error in the figure numeral indicated by the Examiner.
FIG. 29 has been corrected to match the specification.
FIG. 4 has been corrected to match the specification.

Specification Amendments

The specification has been amended to update application data, and to remove attorney docket numbers identifying those applications that are already identified by a U.S. patent application serial number.

A typographical error in the specification accompanying FIG. 29 has been corrected to match that figure.

Typographical errors in the specification referring to an "accepted offers database" have been corrected to "accepted offer database".

The specification has been amended to correct the typographical error noted by the Examiner in the section of the Office Action entitled "Specification".

Claim Objections

Claim **85** has been amended to correct the typographical error noted by the Examiner.

Section 112 Rejections

Claims **24, 25, 65 and 94** were rejected as being indefinite.

Claim **25** has been canceled, overcoming the rejection of claims **24 and 25**.

Claim **65** has been amended to properly depend from claim **64** instead of claim **63**.

Claim **94** has been amended to correct the typographical error noted by the Examiner.

Double Patenting Rejections

Claims **1, 62, 87 - 95, 101 and 102** stand rejected for double patenting in light of claim 1 of U.S. Patent No. 6,249,772 to Walker ("the '772 patent").

Applicants have filed a terminal disclaimer to overcome the rejection. However, Applicants do not agree with the Examiner's various characterizations of the present claims or the motivations to combine or modify the disclosure of the '772 patent.

Section 102 Rejections

Claims 1 – 11, 15 – 49, 54 – 67, 82 – 84 and 87 - 102 stand rejected as anticipated by the '772 patent.

Claims 12 - 14 and 50 - 53 stand rejected as anticipated by U.S. Patent No. 6,085,169 ("the '169 patent").

Claims 68 – 80, 85 and 86 stand rejected as anticipated by U.S. Patent No. 6,193,155 ("the '155 patent").

Claim 81 stands rejected as anticipated by U.S. Patent No. 5,945,653 ("the '653 patent").

With the filing of the CPA, the commonly-owned '772, '155 and '653 patents are disqualified as prior art under Section 102(e), and the rejection of any claims based on those patent cannot be maintained.

Claims 12 – 14 and 50 – 53.

With respect to the rejection of claims 12 - 14 and 50 – 53 as anticipated by the '169 patent, claims 12 – 14 are dependent (directly or indirectly) on claims 1 and 9 and therefore include all of the limitations of claims 1 and 9. Similarly, claims 50 – 53 are dependent (directly or indirectly) on claim 1.

Claim 1 and therefore claims 12 - 14 and 50 – 53 each include the following limitation:

arranging through a communication network for a buyer to

- (i) purchase a product from a seller at a first price, and
- (ii) take possession of the product at a retailer, different from the seller, that offers the product for sale at a second price;

The Examiner has not indicated where the '169 patent discloses or suggests such a limitation. However, in the '169 patent there is no such teaching or suggestion of an entity from which a product is purchased being different than an entity from whom possession is taken.

Further, the '169 patent does not disclose or suggest the following limitation of pending claim 1, and the Examiner has not indicated where the '169 patent discloses or suggests such a limitation:

arranging for the retailer to receive payment of an amount based on a settlement price in exchange for providing the product to the buyer

Thus, each of claims 12 - 14 and 50 – 53 are not anticipated or obvious in light of the '169 patent.

Claim 12.

Further, the '169 patent does not disclose or suggest the following limitation of pending claim 12:

receiving payment of an amount based on the first price plus a penalty amount

The Examiner has referred to Col. 3, line 30 – 35 and Col. 7, lines 13 – 18 of the '169 patent for this limitation. However, these parts of the '169 patent show a different use of a penalty. In the '169 patent, a penalty may be charged if a ticket *is not booked* (i.e. *payment is not made*) when at least one airline has accepted the CPO. In contrast, in pending claim 12 a penalty amount is imposed, even though *a payment has been made* (as recited in claim 1, and note also that in claim 12 the received payment is based on both **the first price** and a penalty amount).

Thus, claims 12 - 14 are not anticipated or obvious in light of the '169 patent.

Claim 13.

Further, the '169 patent does not disclose or suggest the following limitation of pending claim 13:

the penalty amount is imposed when the buyer has not took possession of the product from the retailer within a predetermined period of time

The Examiner has referred to Col. 3, line 30 – 35 and Col. 7, lines 13 – 18 of the '169 patent for this limitation. However, these parts of the '169 patent show a different use of a penalty. In the '169 patent, a penalty may be charged if a ticket *is not booked* (i.e. *payment is not made*) when at least one airline has accepted the CPO. In contrast, in pending claim 13 a penalty amount is imposed, even though a payment is made (recited in claim 1) if the buyer *has not took possession of the product* from the retailer within a predetermined period of time. Taking possession of any product is never described or suggested by the '169 patent.

Thus, claims 13 and 14 are not anticipated or obvious in light of the '169 patent.

Claim 14.

Further, the '169 patent does not disclose or suggest the following limitation of pending claim 14:

the penalty amount is based on a cost associated with shipping the product to the buyer

The Examiner has referred to Col. 3, line 30 – 35 and Col. 7, lines 13 – 18 of the '169 patent for this limitation. However, these parts of the '169 patent show a different use of a penalty. There is no description or suggestion of shipping costs in the '169 patent. Indeed, in the '169 patent there is no description of what the penalty cost may be based on.

Thus, claim 14 is not anticipated or obvious in light of the '169 patent.

Accordingly, a prima facie burden for a rejection of claims 12 - 14 and 50 – 53 under Section 103 has not been made, and the rejection should be withdrawn.

Conclusion

For the foregoing reasons it is submitted that all of the claims are now in condition for allowance and the Examiner's early re-examination and reconsideration are respectfully requested.

Alternatively, if there remains any question regarding the present application or any of the cited references, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact Dean Alderucci at telephone number 203-461-7337 or via electronic mail at Alderucci@WalkerDigital.com.


Petition for Extension of Time to Respond

Applicants hereby petition for a **three-month** extension of time with which to respond to the Office Action. Please charge \$460.00 for this petition to our Deposit Account No. 50-0271. Please charge any additional fees that may be required for this Response, or credit any overpayment to Deposit Account No. 50-0271.

If an extension of time is required, or if an additional extension of time is required in addition to that requested in a petition for an extension of time, please grant a petition for that extension of time which is required to make this Response timely, and please charge any fee for such extension to Deposit Account No. 50-0271.

August 6, 2002
Date

Respectfully submitted,



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S P E C I F I C A T I O N A M E N D M E N T S
M A R K E D U P F O R M

Please **REPLACE** the paragraph that begins at **page 1, line 9** with the following paragraph:

The present application is a continuation-in-part of U.S. Patent Application Serial No. [/ ,] 09/337,906 filed June 22, 1999 and entitled "Purchasing Systems and Methods Wherein a Buyer Takes Possession at a Retailer of a Product Purchased Using a Communication Network" [(99-013)], which is a continuation-in-part of U.S. Patent Applications Serial No. 08/889,503 filed July 8, 1997 and entitled "System and Process for Local Acquisition of Products Priced Online" [(97-032)]; Serial No. 08/889,319 filed July 8, 1997 and entitled "Conditional Purchase Offer Management System" [(96-008X)]; Serial No. 09/190,744 filed November 11, 1998 and entitled "Method and Apparatus for A Cryptographically Assisted Commercial Network System Designed to Facilitate Buyer-Driven Conditional Purchase Offers" [(96-008XXX)], which is a continuation of U.S. Patent Number 5,794,207, filed September 4, 1996; and Serial No. 09/083,345 filed May 22, 1998 and entitled "Method and Apparatus for Managing Remote Vending Machine Transactions" [(97-554)]. The entire contents of these applications are hereby incorporated by reference.

Please **REPLACE** the paragraph that begins at **page 1, line 23** with the following paragraph:

The present application is also related to the subject matter of U.S. Patent Applications Serial No. 08/943,483 filed October 3, 1997 and entitled "System and Method for Facilitating Acceptance of Conditional Purchase Offers" [(97-072)]; Serial No. 08/858,738 filed May 19, 1997 and entitled "System and Process for Issuing and Managing Forced Redemption Vouchers Having Alias Account Numbers" [(96-139)]; and Serial No. 08/997,680 filed December 23, 1997 and entitled "Method and Apparatus for Issuing and Managing Gift Certificates" [(96-139X)]. The entire contents of these applications are hereby incorporated by reference.

Please **REPLACE** the paragraph that begins at **page 4, line 1** with the following paragraph:

In U.S. Patent Application Serial No. [___/___,___] 09/337,906 filed June 22, 1999 and entitled "Purchasing Systems and Methods Wherein a Buyer Takes Possession at a Retailer of a Product Purchased Using a Communication Network" [(99-013)], applicants disclose methods and systems wherein a purchasing system solves many of the problems discussed above. However, when a buyer purchases a product using such a purchasing system, a need exists for further systems and methods to distribute payments, or "settle," between, for example, the purchasing system, the buyer, the seller and the retailer.

Please **REPLACE** the paragraph that begins at **page 14, line 1** with the following paragraph:

amount associated with the product. As used herein, a third-party subsidy amount may be, for example, an amount that a third-party agrees to provide towards the purchase of a product in exchange for a promise regarding, an action by, or information about the buyer. For example, a credit card issuer may agree to add \$50 towards the purchase of a home stereo if a buyer submits a credit card application to the issuer. See, for example, U.S. Patent Application Serial No. 08/943,483 filed October 3, 1997 and entitled "System and Method for Facilitating Acceptance of Conditional Purchase Offers" [(97-072)], the entire contents of which are hereby incorporated by reference.

Please **REPLACE** the paragraph that begins at **page 16, line 25** with the following paragraph:

FIG. 2 illustrates a buyer device 210 that is descriptive of the buyer device shown in FIG. 1E according to one embodiment of the present invention. The buyer device 210 [310] comprises a processor 220, such as one or more Pentium® processors, coupled to: a communication port 240 configured to communicate through a communication network (not shown in FIG. 2); an input device 242 (such as a keyboard or mouse); a display 244; and a printer 246. The communication port 240 may be used to communicate with, for example the purchasing system device 310.

Please **REPLACE** the paragraph that begins at **page 20, line 13** with the following paragraph:

According to an embodiment of the present invention, the purchasing system device 310 arranges for a buyer to purchase a product from a seller at a first price. This may be done, for example, by receiving a buyer offer, included a buyer-defined first price, and information about the product to be purchased. Note that, as used herein, information may be “received” by, for example: (1) the purchasing system device 310 from a buyer device 210; or (2) a software application or module within the purchasing system device 310 from another software application, module or any other source. The purchasing system device 310 may then decide whether or not a buyer offer will be accepted or information about the buyer offer may be routed to one or more seller devices 510. Systems and methods related to such a decision are more fully described in U.S. Patent Application Serial No. [_____] 09/337,906 filed June 22, 1999 [_____] and entitled “Purchasing Systems and Methods Wherein a Buyer Takes Possession at a Retailer of a Product Purchased Using a Communication Network” [(99-013)].

Please **REPLACE** the paragraph that begins at **page 22, line 16** with the following paragraph:

As shown in FIG. 4, the storage device 430 also contains a pricing database 1600 (described in detail with respect to FIG. 16); an accepted offer [offers] database 1700 (described in detail with respect to FIG. 17); and a purchasing system account database 1800 (described in detail with respect to FIG. 18).

Please **REPLACE** the paragraph that begins at **page 22, line 20** with the following paragraph:

The accepted offer [offers] database 1700 may include, for example, buyer offers made through the purchasing system that have been accepted. The purchasing system account database 1800 may include, for example, an amount of payment expected in exchange for providing a product to a buyer. The pricing database 1600 may include, for example: the products the retailer will provide to buyers that purchase the product through the purchasing system: a retail price for each of those products; and a settlement price for each of those products. The settlement price may be used, for example, to determine the amount of payment the retailer expects from the purchasing system in exchange for providing a product to a buyer. If the retailer is the seller that accepted a buyer offer, the settlement price may not be needed.

Please **REPLACE** the paragraph that begins at **page 25, line 23** with the following paragraph:

The credit card processing system device 610 communicates with the purchasing system device 310 and the retailer device 410 using the communication port ~~640~~ [540].

Please **REPLACE** the paragraph that begins at **page 34, line 26** with the following paragraph:

The seller database 1200 [1000] may be used, for example, to determine whether a number of settlement prices (in the case of a manufacturer seller type) or a single price (associated with a retailer seller type) should be used when determining whether or not a buyer offer will be accepted. In addition, when the purchasing system authorizes a retailer to provide a product to a buyer, this database may be used to determine whether or not the seller is the retailer (such as by using the seller type 1206). In the case of a seller other than the retailer, the settlement price is provided to the retailer. On the other hand, when the retailer also acted as the seller, a seller price (which may be based on, or equal to, the first price) may instead be provided to the retailer. If the seller was a retailer - but not the same retailer at which the buyer took possession of the product - the settlement price may still be provided to the retailer at which the buyer took possession of the product.

Please **REPLACE** the paragraph that begins at **page 37, line 3** with the following paragraph:

Note that when a buyer goes to a retailer to take possession of a product, it is possible that he or she will find that the retailer's in-store price is less than the price arranged with the purchasing system (e.g., the item may be on sale). In this case, the purchasing system can guarantee, if desired, the buyer that he or she will be charged the lower of the two prices. Thus, the purchasing system device 310 may compare the product's retail price at the time of redemption with the buyer's price 1310 [310], and make sure that the buyer's financial account is only charged the lower of the two prices. In the case where the buyer was charged for the product at the time the sale was arranged with the purchasing system, the purchasing system may credit the difference back to the buyer's account.

Please **REPLACE** the paragraph that begins at **page 39, line 1** with the following paragraph:

participating in the purchasing system or the beginning of the current financial year). Moreover, the purchasing system has paid a total of ~~\$723,900~~ [\$73,900] to that retailer during this time.

Please **REPLACE** the paragraph that begins at **page 39, line 26** with the following paragraph:

Referring to FIG. 15, a table 1500 represents an embodiment of the seller account database that may be stored at the purchasing system device 310 (FIG. 3). The table 1500 includes entries defining a seller that may sell a product to a buyer through the purchasing system. The table 1500 also defines fields ~~1502, 1504, 1506, 1508, 1510, 1512~~ [1402, 1404, 1406, 1408, 1410, 1412] for each of the entries. The fields specify: a seller identifier 1502; a total paid by, to date 1504; a total paid to, to date 1506; a current amount owed by 1508; a current amount due to 1510; and a last billing date 1512.

Please **REPLACE** the paragraph that begins at **page 41, line 29** with the following paragraph:

The retailer may use this database, for example, when a redemption code is received from a buyer taking possession of a product using a purchasing system voucher. The retailer device ~~410~~ [310] creates a new record in the purchasing system account database 1800 (described with respect to FIG. 18) each time a purchasing system redemption code is redeemed. The retailer device then determines the amount owed by the purchasing

Please **REPLACE** the paragraph that begins at **page 42, line 1** with the following paragraph:

system in exchange for honoring the voucher. If the retailer was the seller associated with a particular voucher, the amount provided to the retailer is based on the buyer's price. Thus, the retailer device 410 checks the accepted offer [offers] database 1700 to determine whether the retailer has accepted the buyer's price associated with the redemption code of a given transaction. If not, the purchasing system provides the settlement price for the product to the retailer.

Please **REPLACE** the paragraph that begins at **page 42, line 10** with the following paragraph:

Referring to FIG. 18, a table 1800 represents an embodiment of the purchasing system account database that may be stored at a retailer device 410 (FIG. 4). The table 1800 includes entries defining a transaction in which a buyer took possession of a product, purchased through the purchasing system, at a retailer. The table 1800 also defines fields 1802, 1804, 1806, 1808, 1810 for each of the entries. The fields specify: a retailer transaction identifier 1802 [180]; a redemption identifier 1804; a product identifier 1806; an expected payment 1808; and a payment status 1810.

Please **REPLACE** the paragraph that begins at **page 49, line 1** with the following paragraph:

2728. The buyer's payment identifier is charged an amount based on the buyer price at 2730. At 2732, the purchasing system collects a subsidy amount [commission fee] (if any), and a payment of an amount based on the settlement price is provided to the retailer and at 2734 before the process is complete.

Please **REPLACE** the paragraph that begins at **page 49, line 23** with the following paragraph:

At 2806, the purchasing system updates the amount owed to the retailer (based on the received retailer identifier) in the retailer's record of the seller account database 1500 [1400], such as by using the settlement price for the product associated with that retailer. At 2808, a payment request is received from the credit card processing system, including a payment amount and a retailer identifier.

Please **REPLACE** the paragraph that begins at **page 49, line 28** with the following paragraph:

If the amount of the payment request matches the amount indicated in the seller account database 1500[1400] at 2810, the appropriate amount is provided to the credit card processing system (to be provided to retailer) at 2812. If, on the other hand, the amounts do not match at 2810, a message indicating an account discrepancy is sent to the retailer or the credit card processing system at 2814.

Please **REPLACE** the paragraph that begins at **page 50, line 7** with the following paragraph:

If the redemption code does not match [matches] an outstanding redemption code in the accepted offer database 1700 at 2906, the retailer retrieves the settlement price corresponding to the product from the pricing database 1600 and stores it in the expected payment field 1808 of the purchasing system account database 1800 at 2908. If the redemption code matches an outstanding redemption code in the accepted offer [offers] database 1700 at 2906, the retailer retrieves the buyer's price from the accepted offer database [and] 1700 and stores it in the expected payment field 1808 of the purchasing system account database 1800 at 2910.

C L A I M A M E N D M E N T S
M A R K E D U P F O R M

Please **CANCEL** Claim 25.

Please **AMEND** the claims as follows:

65. (AMENDED) The method of claim ~~64~~ [63], wherein said determining comprises at least one of:

- (i) sending information about the buyer offer to at least one seller; and
- (ii) locally determining if the buyer offer will be accepted.

85. (AMENDED) A method of operating a purchasing system, comprising:

receiving, from a buyer through a communication network, a buyer offer, including information about a product to be purchased, a first [fist] price and a payment identifier;

determining if the buyer offer will be accepted by evaluating at least one of: the first price, a settlement price to be paid to a retailer in exchange for providing the product to the buyer, a seller price to be paid to a seller of the product, a subsidy amount to be paid by a subsidy provider, a commission amount to be paid by a commission provider, and a minimum acceptable price;

receiving from the buyer payment of the first price using the payment identifier;

sending a pseudo payment identifier to the buyer;

receiving the pseudo payment identifier from the retailer;

sending to the retailer a verification authorizing the buyer to take possession of the product; and

arranging for the retailer to receive payment of the settlement price.

94. (AMENDED) A method of operating a purchasing system, comprising:

arranging through a communication network for a buyer to purchase a product from a seller at a first price;

arranging for the buyer to take possession of the product at a retailer that offers the product for sale at a second price;

arranging for the buyer to provide a payment to the retailer based on the second price; and
arranging for the ~~retailer~~ [buyer] to receive a payment based on the difference between the first price and the second price.